

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

TRINA DIBRILL, a disabled	)	
person, by and through her	)	
Mother/Guardian, next friend,	)	
Annginette Wheeler	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 4:09CV764-DJS
	)	
NORMANDY NURSING CENTER,	)	
et al.,	)	
	)	
Defendants.	)	

ORDER

Now before the Court are Midwest Provider Insurance Company's motion to intervene [Doc. #39], and Midwest's motion to stay proceedings [Doc. #41]. Midwest states that it is an insurance company that issued a policy of insurance to defendant Normandy Associates, Inc., d/b/a Normandy Nursing Center, and that this policy was in effect from June 1, 2008, to May 31, 2009 (which includes December 21, 2008, the date of the alleged assault of plaintiff Trina Dibrill). Midwest further states that the policy defines "insured" to include an employee of the named insured but only while acting within such capacity. Midwest has filed an action for declaratory judgment with this Court (Case No. 4:09CV1998-TIA), naming defendant Santonio McCoy and plaintiff Dibrill as defendants and seeking a declaration that it does not have a duty to defend defendant McCoy in this action. Midwest

states that it has an interest in this matter not adequately represented by the other parties, and should be allowed to intervene in this action. Midwest states that it should be allowed to intervene to dismiss the action or stay the proceedings.

As the Court this day enters an order (1) dismissing plaintiff's federal law claims for failure to state a claim, and (2) declining to extent its pendant jurisdiction over plaintiff's state law claims, the Court finds that Midwest's motion to intervene should be denied without prejudice. Accordingly, Midwest's motion to stay will be denied.

**IT IS HEREBY ORDERED** that Midwest Provider Insurance Company's motion to intervene [Doc. #39] is denied without prejudice.

**IT IS FURTHER ORDERED** that Midwest Provider Insurance Company's motion to stay proceedings [Doc. #41] is denied.

Dated this 26th day of January, 2010.

/s/Donald J. Stohr  
UNITED STATES DISTRICT JUDGE